

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 09-CR-043-SPF
)	
LINDSEY KENT SPRINGER,)	
)	
Defendant.)	

**UNITED STATES’ MOTION TO STRIKE OR IN THE ALTERNATIVE DENY
DEFENDANT SPRINGER’S MOTION TO RECUSE OF DISQUALIFY
HONORABLE UNITED STATES DISTRICT JUDGE STEPHEN P. FRIOT AND
AFFIDAVIT OF LINDSEY KENT SPRINGER PURSUANT TO 28 U.S.C. § 144
(DOCKET NUMBERS 485 AND 486)**

The United States of America, by and through its attorneys, Thomas Scott Woodward, Acting United States Attorney for the Northern District of Oklahoma, and Kenneth P. Snoke, Assistant United States Attorney, and Charles A. O’Reilly, Special Assistant United States Attorney, hereby moves to strike Defendant Lindsey Kent Springer’s Motion to Recuse of Disqualify Honorable United States District Judge Stephen P. Friot (Docket No. 485) and Affidavit of Lindsey Kent Springer Pursuant to 28 U.S.C. § 144 (Docket No. 486), or in the alternative to deny the motion as barred under the doctrine of issue preclusion.

The United States moves to strike Defendant's pleadings because they are filed in violation of the local rules of the United States District Court for the Northern District of Oklahoma. Defendant Springer's motion and affidavit each violate the local rule requiring that margins be a minimum of one inch on the top, bottom and sides. The left and right margins on Defendant's motion are approximately 0.625 inches and 0.500 inches, respectively. The top margin is approximately 0.75 inches. But for Defendant's violation of the margin requirements, Defendant's motion would have exceeded the twenty-five page limitation also prescribed by LCvR 7.2(c).

The doctrine of "[i]ssue preclusion bars a party from relitigating an issue once it has suffered an adverse determination on the issue" *Wilkes v. Wyoming Department of Employment*, 314 F.3d 501, 504 (10th Cir. 2002). Defendant previously moved to disqualify the Honorable United States District Court Judge Stephen P. Friot following Defendant's trial and conviction (Docket Nos. 271 and 272). The Court denied Defendant Springer's motion as part of its order dated January 28, 2010. Docket No. 293.

Finally, to warrant recusal under 28 U.S.C. § 144, the alleged bias and prejudice must be personal and extrajudicial. *See United States v. Irwin*, 561 F.2d 198, 200 (10th Cir. 1977); *Davis v. Cities Service Oil Co.*, 420 F.2d 1278, 1282 (10th Cir. 1970). Adverse legal rulings, standing alone, do not provide grounds for recusal. *Glass v. Pfeffer*, 849 F.2d 1261, 1268 (10th Cir.1988).

For the reasons identified, the United States requests that the Court strike Defendant's Motion to Recuse or Disqualify Honorable United States District Judge Stephen P. Friot (Docket No. 485) and Affidavit of Lindsey Kent Springer Pursuant to 28 U.S.C. § 144 (Docket No. 486). Alternatively, the United States requests that the Court deny Defendant's motion.

Respectfully submitted,

DANNY C. WILLIAMS
UNITED STATES ATTORNEY

/s/ Charles A. O'Reilly

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CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of May 2013, I served the foregoing document by United States Postal Mail, and electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing, to the following ECF registrant:

Lindsey Kent Springer
Defendant
FCI Big Spring
Federal Correctional Institution
1900 Simler Ave
Big Spring, TX 79720
Inmate Number 02580-063.

/s/ Charles A. O'Reilly
Charles A. O'Reilly
Special Assistant United States Attorney

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ORDER

Defendant Lindsey Kent Springer's Motion to Recuse of Disqualify Honorable United States District Judge Stephen P. Friot (Docket No. 485) and Affidavit of Lindsey Kent Springer Pursuant to 28 U.S.C. § 144 (Docket No. 486), are stricken for being filed in violation of the local rules.

DATED _____

STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE